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OCT 16 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

October 15, 1997

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 234  
Washington, D.C. 20554

Re: Petition for Reconsideration of Final Rule Closed Captioning  
and Video Description of Video Programming  
MM Docket NO. 95-176

Dear Secretary Caton:

Enclosed are an original and ten copies of the petition of Self Help for Hard of Hearing People, Inc. (SHHH) for Reconsideration of the Final Rule, Closed Captioning of Video Programming.

We urge the FCC to consider the specific recommendations for technical corrections to the Final Order, and thank the FCC for your interest in furthering access to telecommunication services for all Americans.

Sincerely,

Donna Sorkin  
Executive Director

10/15/97 10:10 AM  
11/1/97 10:10 AM  
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OCT 16 1997

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 ) MM Docket 95-176  
Petition for Reconsideration of Final Rule )  
Closed Captioning of Video Programming )

**Comments of  
Self Help for Hard of Hearing People, Inc.**

Self Help for Hard of Hearing People, Inc. (SHHH) hereby requests the FCC to reconsider the Final Rule re. Closed Captioning of Video Programming published in the Federal Register September 16, 1997 (Volume 62, Number 179).

SHHH is a national educational organization representing people who are hard of hearing of all ages and degrees of hearing loss. Through a national office, seven state associations and a network of 250 chapters and groups across the country, SHHH members work at the grassroots to increase communication access to enable the 26 million people who are hard of hearing to continue to function in mainstream society. Captioning is a critical link to their accessing television.

We thank the FCC for the rule which sets the pace for

transitioning towards having most programs captioned. However, as stated in our comments submitted February 26, 1997, in response to the FCC Notice of Proposed Rulemaking on Closed Captioning, SHHH still believes an eight year phase in is too slow and that the end goal should be 100% of programs captioned. Anything less than 100% does not provide full access to video programming for hard of hearing people.

SHHH is in full support of the National Association of the Deaf's petition for reconsideration of the Final Report and Order for Closed Captioning of Video Programming. We share their concerns and support the requests made in their petition.

In addition we believe that the way the rule is currently written there would, in some cases, actually be backsliding in the total number of hours of captioning of non exempt new programming for particular video programming providers. Therefore we have two specific amendments we would like the FCC to adopt.

The current rule states in Section 79.1 (b) (i): "Requirements for New Programming" provides that video programmers, commencing January 1, 2000 through the period December 31, 2001 provide at least 450 hours per quarter of captioned programming.

We urge the FCC to amend the Final Rule and request the following changes. Amendment 1:

Commencing January 1, 1999, through December 31, 1999, all video programmers not subject to exemptions, are required to provide the following minimum number of hours of closed captioning on nonexempt new programming as follows:

(i) In the first quarter of 1999, a minimum of 100 hours of closed captioning

(ii) In the second quarter of 1999, a minimum of 200 hours of closed captioning

(iii) In the third quarter of 1999, a minimum of 300 hours of closed captioning

(iv) In the fourth quarter of 1999, a minimum of 400 hours of closed captioning.

Justification:

The current final regulations do not require video programmers to provide closed captioning of new nonexempt programming before the year 2000, two years from the effective date of the Order. There is no provision for progressive implementation of closed captioning by video programmers under the current Final Order.

We understand from captioning industry sources that video programmers who may have considered closed captioning now are reluctant to consider closed captioning, and may defer implementation of closed captioning for the longest possible time i.e. one year and eleven months, or until they absolutely must

provide captioning. In effect, by not providing for a progressive implementation of closed captioning, video programmers have a two year window, or "free ride" before having to conform to the benchmarks for closed captioning provided for in the Final Order. In this respect, the market effect of the Final Rule is to defer full accessibility through closed captioning, and appears to be inconsistent with Congressional intent.

In addition, the FCC, in establishing an eight year transition to reach the 95% level of closed captioning of new programming, envisioned a scenario where the pool of stenocaptioners would grow as demand increased, the market for closed captioning services would become more competitive, and prices would decline. By not requiring a more immediate, and moderate phase-in of captioning during the transition period, we understand smaller captioning companies will not need to hire candidates for closed captioning. Such very small companies, we understand, comprise the majority of all captioning companies in the industry, and have revenues of less than \$3 million per annum. As a result, the pool of qualified captioners will not grow significantly during the initial two years of the transition period, unless such organizations can meet growing, sustained demand, enabling them to hire qualified stenographers who can be trained as captioners. If the pool of qualified captioners cannot be broadened on a sustained basis, it is highly unlikely that prices for closed captioning will decline, which may encourage video programmers to seek relief from

captioning requirements relying on undue burden exemption petitions.

We believe implementation of benchmarks as we have suggested above, beginning January 1, 1999, after the first year of the transition period, will encourage the development of the pool of available captioners, and in the long run enable the FCC to realize the objective of a more competitive, price-efficient captioning industry. In addition, Congressional intent to provide full accessibility of video programming through closed captioning will be met more efficiently than through the current benchmark timetable.

The current rule states: "Programming on new networks will be exempt from the closed captioning requirements of the Final Order for four years from the start of operations, unless annual gross revenues from all sources reach \$75,000,000 per annum, at which time such new networks will be required to conform to the eight year transition period, with such benchmarks commencing by the beginning of the fifth quarter, or start of year two as noted above. In any event, such network (s) will not be required to expend an amount in any calendar year during the transition period equal to or greater than 2% of annual gross revenues to comply with minimum benchmark transition levels for closed captioning."

We request that the four year exemption for new networks

provided for in Section 79.1 (a)(7) (d)(9) be modified as  
Amendment 2:

In the event a "new network" reaches \$75,000,000 in annual gross revenues from all sources prior to the expiration of its exemption, it will begin the eight year transition period to reach closed captioning of 95% of new nonexempt programming on a schedule as follows:

(i) In the fifth quarter following the effective date of the beginning of the transition period, a minimum of 100 hours of closed captioning of new, nonexempt programming. The effective date for beginning the eight year transition period shall be computed on a quarterly basis from the first full month following the network reaching the \$75,000,000 million annual gross revenues, measured on a year-over-year basis.

(ii) In the sixth quarter following the beginning of the transition period, a minimum of 200 hours of closed captioning of new, nonexempt programming.

(iii) In the seventh quarter following the beginning of the transition period, a minimum of 300 hours of closed captioning of new nonexempt programming.

(iv) In the eighth quarter, a minimum of 400 hours of closed captioning.

(v) In the ninth through twelfth quarter, a minimum of 450 hours of closed captioning in each quarter.

(vi) In the thirteenth through sixteenth quarter, a minimum of 900 hours of closed captioning in each quarter.

(vii) In the seventeenth through twentieth quarter, 1350 hours of closed captioning in each quarter.

(viii) In year 6 (commencing in the twenty-first quarter), and thereafter, 95% of the distributor's new non-exempt programming must be provided with closed captioning.

**Justification:**

We do not believe a blanket exemption for closed captioning of new networks is consistent with Congressional intent to promote full accessibility through closed captioning of new programming. It is not accurate to say in all instances, that diversity of programming on new networks would be affected if such networks were required to provide closed captioning according to schedule for closed captioning in the Final Order, or as provided for in the above-modified eight year transition schedule. In developing exemptions, the FCC has only considered the impact of cost on operations, without regard to revenues of new networks, and the potential ability of a new network to provide closed captioning and at a level below 2% of annual gross revenues. In fact, there are new networks with the means or ability to provide closed captioning at levels conforming to the transition level, and within a four year period of start of operations. By not considering the financial ability of certain new networks to provide closed



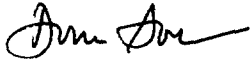
captioning, we believe Congressional intent to promote full accessibility is not being achieved by the four year blanket exemption contained in the Final Order.

We understand from one captioning market source that a certain "new network" had made substantial provision prior to the issuance of the FCC Report and Order for closed captioning, and upon learning that it had no such liability or requirement for four years, used such funds for other corporate purposes. Therefore, the current four year blanket exemption to new networks without regard to a network's ability to pay for captioning denies all hard of hearing and deaf viewers the full accessibility to video programming intended by Congress. In Canada, for example, we understand that all video programmers with \$10 million or more in advertising revenues are required, commencing in 1998, to provide closed captioning on all their programming.

We urge the FCC to modify its Final Order for new networks as provided above to include consideration of a new network's ability to pay for closed captioning.

Again, we thank the FCC for all the efforts they are making to ensure television is accessible to hard of hearing and deaf viewers. We believe the requests outlined in our petition are not unreasonable and will better fulfill Congressional intent.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Donna Sorkin".

Donna Sorkin  
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October 15, 1997